

ORDINANCE NO. \_\_\_\_\_, SERIES 2009

**AN ORDINANCE AMENDING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 113.17, 113.22(A), AND 113.40(D) AND DELETING SECTIONS 113.55 AND 113.80 RELATING TO ALCOHOLIC BEVERAGES.**

**Primary Sponsor:** \_\_\_\_\_

**BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:**

**SECTION I:** Section 113.17 is hereby amended to read as follows:

**§ 113.17 DELINQUENT TAXES; LICENSE WITHHELD.**

No license to sell alcoholic beverages shall be granted to any person who is delinquent in the payment of any taxes due to the Louisville Metro Government at the time of issuing the license. Nor shall any license be granted to sell on any premises or property, owned and occupied by the licensee, on which there are any delinquent taxes or liens due to the Louisville Metro Government. Where the property or premises on which a license to sell is sought, is rented or occupied by the applicant for a license but is owned by another, no license shall be granted if the taxes or liens of the Louisville Metro Government due on the property or premises have not been paid. In such cases, the Louisville Metro Government ABC Administrator may, in his discretion, issue a license to sell after receiving from the Louisville Metro Government a written statement to the effect that the applicant for the license and the owner of the property or premises on which the license is sought have made arrangements with the Louisville Metro Government, satisfactory to it, for taking care of the indebtedness represented by the unpaid and delinquent taxes or liens referred to above.

**SECTION II:** Section 113.22(A) is hereby amended to read as follows:

(A) Every applicant procuring a license thereby consents to the entry of the Louisville Metro ~~ABC~~ Government ABC dministrator, or any duly authorized representative of such Administrator, into the licensed premises and/or building containing licensed premises including any locked storage rooms or offices or lockers used by the licensed premises or its employees. Such entry may take place during regular business hours of the licensed premises, or such other times as the licensed premises are occupied by the licensee or a clerk, servant, agent, employee or customer of the licensee, for the purpose of inspection and search to ascertain if the licensee is in violation of this chapter or state or federal law and regulations promulgated thereunder relating to alcoholic beverages, including statutes or regulations prohibiting any sale, possession, or use of controlled substances on licensed premises and prohibiting the setting up, conducting, operating, or keeping on the licensed premises of any gambling equipment or facility. Evidence of a violation discovered pursuant to this subsection may be seized and used in an administrative or court hearing.

**SECTION III:** Section 113.40(D) is hereby amended to read as follows:

(D) Notwithstanding the provisions of subsections (A) and (B), any special hours retail package or drink licensee may sell or permit to be sold and any special hours retail drink licensees may permit the consumption of distilled spirits or wine at any time between the hours of 12:00 a.m. and 2:00 a.m. and 2:00 a.m. to 4:00 a.m. on each day of the week, as long as the licensee holds a current, corresponding special hours license(s). However, an extended (special) hours retail package license, as discussed

immediately above, specifically prohibits the sale of distilled spirits and wine on Monday between the hours of 12:00 a.m. and 4:00 a.m.

**SECTION IV:** Section 113.55 is hereby deleted in its entirety as follows:

**~~§ 113.55 EMPLOYMENT OF TWICE-CONVICTED PERSONS PROHIBITED;  
DEFENSES PROHIBITED.~~**

~~—(A)— No licensee can employ in any capacity, for a period of two years from the date of the last conviction, any person who has been convicted twice in a two-year period of violations of this chapter. No person who has been convicted twice in a two-year period of violation of this chapter can serve as a shareholder, officer, director, member, partner, or in any other capacity, of a licensee. The two-year period begins on the date of the first conviction, and ends two years from that date.~~

~~—(B)— Failure of the licensee to terminate the relationship with the licensee of any person who has been twice convicted in a two-year period of violating §§ 113.54 through 113.82, after receiving notice of the person's disqualification, shall be grounds for revocation of the licensee issued by the Louisville Metro Government ABC Administrator.~~

~~—(C)— It shall not be a defense to a prosecution for the forfeiture of the license under this section, that the person who has been twice convicted of violations of this chapter refused to terminate the relationship nor shall it be a defense that the licensee was not aware that its employee had been twice convicted.~~

**SECTION V:** Section 113.80 is hereby deleted in its entirety as follows:

**~~§ 113.80 DATABASE TO BE MAINTAINED.~~**

~~—(A)— The names of persons who have been convicted for violations of this chapter shall be maintained in a database by the Louisville Metro Government ABC Administrator.~~

~~—(B)— All licensees shall contact the Louisville Metro Government ABC Administrator either by telephone, mail or via Internet to determine the eligibility of potential employees. If the licensee obtains information via the Internet, the licensee shall print a hard copy of the information with the date and time received and maintain it for a year. If the information is requested by mail or telephone, the Louisville Metro Government ABC Administrator shall respond promptly and confirm in writing the information provided.~~

~~—(C)— When a person becomes twice convicted for violations of this chapter in a two-year period, the employer of that person shall be notified of the disqualification under this chapter by regular U.S. mail. That notice shall be prima facie evidence that the licensee received notice that the person was unemployable under this chapter.~~

~~—(D)— The licensee shall discharge the disqualified employee within five days of the sending of the notice in subsection (C) of this section.~~

**SECTION VI:** This Ordinance shall take effect upon its passage and approval.

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Kathleen J. Herron  
Metro Council Clerk

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David W. Tandy  
President of the Council

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Jerry E. Abramson  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

BY: \_\_\_\_\_

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1-30-09